SECTION 102 OBJECTIONS

The examiner rejected claims 13-21 and 23-27 per *35 USC §102(B)* per Ogi.

Ogi lacks the formation of a continuous flange extending longitudinally across the stent formed by the plurality of spring devices engaged with connector devices. Ogi instead has individual bridges connecting half-sinoidal helical windings. There are gaps therebetween and the resulting structure does not form a continuous longitudinal flange as easily can be seen by a comparison of Fig. 2 of the present application with the figures of OGI. Further Ogi's half-sinoidal helical winding itself is not linear but describes a curve. Longitudinally, this is not continuous and instead leaves numerous gaps between every other section or winding. (Figure 4 of Ogi)

The flange of applicant's device being continuous and extending longitudinally across the stent, providing means to maintain said length of said stent under tensile or compressive stress. Both elements are lacking in the cited art which uses flexible bridges or connectors adjoined by gaps between stent sections and lacks any continuous longitudinal structure and hence any means to maintain length under tensile and compressive stress.

> "Anticipation requires the presence, in a single prior art reference, disclosure of, *each and every element,* of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984)

The cited art, lacking the continuous longitudinally extending flange providing support and means to maintain the length of the stent across the continuous longitudinal distance of the formed stent, lacks each and every element of applicant's device.

As such the rejection pursuant to section 102 is respectfully traversed.

Section 103 Objections

Since Ogi lacks structure, claimed by Applicant, and the utility that structure provides, any combination with Ogi would also lack that structure. Consequently the citation of Ogi for all elements but the thicker connectors is respectfully traversed since Ogi lacks the continuous flange, formed of the combination of connectors and adjacent adjoining spring sections.

Further the Examiner cites Ogi, (column 5 lines 45- column 6 line 13) for the proposition that the connectors can be made wider or larger than the size of the spring sections as obvious. It appears the Examiner may have fallen into a hindsight analysis. The cited section of Ogi does not speak to making the connectors or spring sections of different sizes, but only to the cutting the entire device to sizes to allow later machining and such.

Further, at Column 54 line 52 to column 5 line 4, Ogi speaks to the intent of the Ogi connectors or bridges formed during manufacture, to "act as springs" and "store energy" which thus

allows a collapse of the Ogi stent under pressure. The connectors will not act as springs if as suggested by the Examiner they were made larger than the adjacent stent sections to which they connect.

Still further, Ogi is specifically teaching against the construction of Applicant's device which employs a series of wider or thicker connectors engaged to adjoining spring sections on both sides of each connector, to form a continuous longitudinal flange to maintain the stent's length. Ogi teaches the bridges of Ogi, along with gaps on each side shown in the figures, should bend or spring to absorb and store energy to spring back the sections. Thus the stated purpose of the Ogi bridges is not providing a means to maintain the length of the stent, but to flex and store energy and allow a compression of the Ogi stent. The bridges of Ogi, and gaps therebetween shown in the figures, intentionally allow a collapse of the length of the stent of Ogi and do not maintain the length under tensile or compressive stress using a continuous longitudinal flange.

REMARKS AND CONCLUSION

Applicants' device claims elements providing function, which are neither taught nor suggested in the cited prior art which teaches against Applicant's construction.

Additionally, Applicant as noted in the specification, considers the improvement to be substantial in that it provides an especially strong stent to resist dimension changing tensile

and compressive forces imparted during implant and is much more easily constructed using tubing and laser cutting. As such Applicant feels the claimed device is a significant advance in stents and provides great benefits to the end user and patient.

However, as noted in the earlier action, even if the Examiner does not consider Applicant's claimed device a great advance in the crowded art, it has been established that one should not be deprived of patent protection where it can be shown that *any genuine improvement* has been made, on comparison, with other inventions in the art, even if the improvement is slight, or lacks the appearance of a great advance in the art. In re Lange, 128 USPQ 365, the CCPA on page 367 stated that:

> "We think that the present application is a distinct improvement of Jezalik and represents an advance in the art not obvious, having patentable novelty. The art is a crowded and comparatively simple on and in such an art, great advances are not to be expected. However patentability will not be denied to an invention which accomplishes a small, but nevertheless genuine improvement not though of by others.."

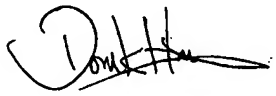
Further, as noted in an earlier action, the CCPA in the case of re Meng and Driessen, 181 USPQ 94, on page 97, reiterated the principal that, even though the invention seems a simple advance over prior art, *after the fact*, simplicity, particularly in a crowed art, argues *for*, rather than against, patentability.

Applicants' device using a novel series of wider or thicker connectors between aligned adjacent spring devices, to form a continuous longitudinally extending flange, provides genuine improvement in the stent art, and even where the improvements are considered simple in a crowded art, these improvements argue *for*

patentability. As such, all claims of the application should now be in position for allowance.

Finally, should the new Examiner have suggestions to more clearly define the claims to more clearly define the patentable subject matter, and hasten approval, the Applicant's attorney would be most receptive to such by telephone or Examiner's amendment.

Respectfully submitted,



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